

IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT  
THE HONOURABLE MR. JUSTICE AMIT RAWAL

Wednesday, the 31<sup>st</sup> day of August 2022 / 9th Bhadra, 1944  
WP(C) NO. 28289 OF 2022

**PETITIONER:**

1. ABDUL SATHAR AGED 48 YEARS S/O. IBRAHIM, PROPRIETOR, ACCORD CAR PALACE, CITY CENTRE, COLLEGE JUNCTION, KAYAMKULAM, ALAPPUZHA-690502 RESIDING AT 'SATHAR MANZIL', ALUMKADAVU P.O., KARUNAGAPPALLY, KOLLAM-690573.
2. MUHAMMED ZIYA. T, AGED 41 YEARS S/O. THAHAKUTTY. U, PROPRIETOR, RANY'S GROUP, NEAR MSM COLLEGE, KAYAMKULAM, ALAPPUZHA-690502 RESIDING AT 'ZIYA MANZIL', RC CHURCH ROAD, KAYAMKULAM, ALAPPUZHA-690502.
3. SREEKUMAR C.K., AGED 40 YEARS S/O. KUMAR, PROPRIETOR, SHADOW SIJO MEDIA, NEAR MSM COLLEGE, KAYAMKULAM, ALAPPUZHA-690502 RESIDING AT CHERUPPAKATTUKUDY, EDATHALA P.O., ALUVA, ALUVA EAST, ERNAKULAM-683561

**RESPONDENT:**

1. UNION OF INDIA REPRESENTED BY ITS SECRETARY, MINISTRY OF ROAD TRANSPORT & HIGHWAYS, TRANSPORT BHAVAN, PARLIAMENT STREET, NEW DELHI-110001.
2. STATE OF KERALA REPRESENTED BY ITS SECRETARY, DEPARTMENT OF TRANSPORTATION GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001.
3. THE TRANSPORT COMMISSIONER, TRANSPORT COMMISSIONERATE, 2ND FLOOR, TRANS TOWERS, VAZHUTHACADU, THYCADU POST, THIRUVANANTHAPURAM-695014.
4. THE REGIONAL TRANSPORT OFFICER, ENFORCEMENT CONTROL ROOM, I-FLOOR, BSNL BUILDING, KACHERI JUNCTION, AMBALAPUZHA, ALAPPUZHA-688561.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to stay Exhibit P1,P1(a),P1(b) notices,pending disposal of the Writ Petition.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of D.KISHORE, MEERA GOPINATH Advocates for the petitioners the court passed the following

**AMIT RAWAL, J**

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**W.P. (C) No. 28289 of 2022**  
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**Dated this the 31<sup>st</sup> day of August, 2022**

**ORDER**

Inter alia alleges that petitioners are the shopkeepers selling the accessories of vehicles and sun glass films including glaze glasses and safety glasses for buildings and vehicles. All the materials are conforming with the provisions of Rule 100 of the Central Motor Vehicles Rules, 1989 amended in 2020. The provisions of the sections noticed in the show cause notices issued by the Transport Department would only be applicable to owners of the vehicle and the manufacturers but not to the shopkeepers.

2. Mr.D.Kishore, learned counsel for the petitioners submits that it would be a total farcical exercise for the petitioners to reply to the show cause notice as they are without jurisdiction and prays for an interim prayer.

3. Provisions of Section 52 of the Motor Vehicles Act and amended Rule 100 of the Central Motor Vehicles Rules reads thus:

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**"Section 52. Alteration in motor vehicle.-**(1) No owner of a motor vehicle shall so alter the vehicle that the particulars contained in the certificate of registration are at variance with those originally specified by the manufacturer:

Provided that where the owner of a motor vehicle makes modification of the engine, or any part thereof, of a vehicle for facilitating its operation by different type of fuel or source of energy including battery, compressed natural gas, solar power, liquid petroleum gas or any other fuel or source of energy, by fitment of a conversation kit, such modification shall be carried out subject to such conditions as may be prescribed:

Provided further that the Central Government may prescribe specifications, conditions for approval, retrofitment and other related matters for the alteration of motor vehicles and in such cases, the warranty granted by the manufacturer shall not be considered as void for the purposes of such alteration or retrofitment.]

Provided also that the Central Government may grant exemption for alteration of vehicles in a manner other than specified above, for any specific purpose.

[(1-A) A manufacturer of a motor vehicle shall on the direction issued by the Central Government, alter or retrofit safety equipment, or any other equipment in accordance with such standards and specifications as may be specified by the Central Government.]

[(2) Notwithstanding anything contained in subsection (1), any person may, with the subsequent approval of the registering authority, alter or cause to be altered any vehicle owned by him to be converted into an adapted vehicle:

Provided that such alteration complies with such conditions as may be prescribed by the Central Government.]

(3) Where any alteration has been made in motor vehicle without the approval of registering authority, the owner of the vehicle shall, within fourteen days of the making of the alteration, report the alteration to the registering authority within whose jurisdiction he resides and shall forward the certificate of registration to that authority together with the prescribed fee in order that particulars of registration may be entered therein

(4) A registering authority other than the original registering authority making any such entry shall communicate the details of the e entry to the original registering authority.

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(5) Subject to the provisions made under sub-sections (1), (2), (3) and (4), no person holding a vehicle under a hire-purchase agreement shall make any alteration to the vehicle except with the written consent of the registered owner.

Explanation.-For the purposes of this section, "alteration" means a change in the structure of a vehicle which results in change in its basic feature]"

**Amended Rule 100 of the Central Motor Vehicles Rules:**

"The windscreen and window glass of every motor vehicle including agriculture tractor fitted with cabin, construction equipment vehicle fitted with cabin and combine harvester shall be made of safety glass or safety glazing material."

4. On perusal of the same the liability of alteration of vehicle is on the owner or manufacturer of the vehicle and not on the shopkeeper. Thus I am of the *prima facie* view that the notices are without jurisdiction, therefore, the writ jurisdiction of this Court can be entertained even without replying the same.

5. Issue notice before admission. Mr.Manu S., learned Assistant Solicitor General of India accepts notice for respondent No.1. Mr.Jimmy George, learned Government Pleader accepts notice for respondent Nos.2 to 4. In the meantime, the operation of the impugned

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notices, Ext.P1 series is ordered to be stayed till the next date of hearing.

Post on 15.11.2022.

Sd/-

**AMIT RAWAL  
JUDGE**

VV



**APPENDIX OF WP(C) 28289/2022**

- Exhibit P1** TRUE COPY OF THE NOTICE NO. KYLM/001 DATED 12.8.2022 ISSUED BY THE 4TH RESPONDENT TO THE 1ST PETITIONER ALONG WITH THE ENGLISH TRANSLATION.
- Exhibit P1 A** TRUE COPY OF THE NOTICE NO. 005 DATED 12.8.2022 ISSUED BY THE 4TH RESPONDENT TO THE 2ND PETITIONER ALONG WITH THE ENGLISH TRANSLATION.
- Exhibit P1 B** TRUE COPY OF THE NOTICE NO. KYLM/002 DATED 12.8.2022 ISSUED BY THE 4TH RESPONDENT TO THE 3RD PETITIONER ALONG WITH THE ENGLISH TRANSLATION.

